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PHOENIX, ARIZONA

October 22, 1965

DEPARTMENT OF LAW OPINION NO. 65-21 (R-140)

REQUESTED BY: Mr. Philip S. Malinsky
Executive Director,
Arizona Civil Rights Commission

QUESTION: Is a trailer court a "place of public accommodation" within the meaning of A.R.S. §41-1441 or a covered establishment under any of the other provisions of the Arizona Civil Rights Act, A.R.S. §41-1401, et seq.?

ANSWER: See body of opinion.

The pertinent provisions of A.R.S. §41-1441 provide in part:

"2. 'Places of public accommodation' means . . . all public places which are conducted for the lodging of transients or for the benefit, use or accommodation of those seeking health or recreation and all establishments which cater or offer its services, facilities, or goods to or solicits patronage from the members of the general public . . . or any place which is in its nature distinctly private is not a place of public accommodation."

Trailer courts are not expressly included; therefore, if they are to be included at all it must be by implication or interpretation consistent with legislative intent. The judiciary

will try to give meaning to each word, clause or sentence, looking to the entire Act and the purpose for which it was enacted, to determine the legislative intent. Frye v. So. Phoenix Volunteer Fire Co., 71 Ariz. 163, 224 P.2d 651 (1950). We are guided by this approach.

To fall within the statutory definition, a trailer court must be conducted for the lodging of transients, or be conducted for the benefit, use or accommodation of those seeking health or recreation, or offer its services, facilities or goods to, or solicit patronage from, the members of the general public. To be specifically excluded, a trailer court must be "...in its nature distinctly private. ..." A.R.S. §41-1441(2). In a recent Wisconsin case, Gregory v. Madison Mobile Home Parks, Inc., 24 Wis.2d 275, 128 N.W.2d 462 (1964), an action, pursuant to provisions similar to those here under consideration, was brought against the proprietor of a mobile home park. Violations of the public accommodations section of the Wisconsin statute were alleged. The court remanded the case for trial and indicated that the nature, characteristics and incidents of operation were essential in determining whether the park was a public accommodation within the contemplation of the statute. The Wisconsin court recognized that merely labeling an establishment was insufficient for inclusion by implication, within the statutory definition.

In an Illinois Attorney General's Opinion, No. F-1070, December 13, 1963, 8 Race Rel. Law Rept. 1749, it was said that when a trailer court is not expressly mentioned as "a place of public accommodation", you must look to the kind, class or nature of the business to see if it is like those enumerated, using the ejusdem generis rule. The "ejusdem generis rule" simply means that where you have enumerated particular classes of persons or things, with general words following, the general words should be construed to apply only to those persons or things of the same general nature or class as those enumerated. State Bd. of Barber Examiners v. Walker, 67 Ariz. 156, 192 P.2d 723 (1948). The same reasoning may be applied to A.R.S. §41-1441. The statute clearly applies to particular establishments

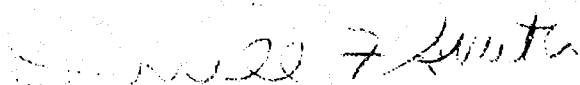
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indicated by the way in which they are conducted and the way in which they solicit patronage from the general public.

Therefore, it would be essential to inquire into the trailer court's manner of conducting business and the nature of the business solicited, before a determination could be made as to whether or not it was of a like kind, class or nature as those enumerated in the statute. There are a number of different types of trailer courts, such as those soliciting only transient type business and those catering to more permanent business, where the space is leased for a long term or even purchased and the trailers are never moved. Consequently, the final determination must be made on the facts and circumstances of each individual case.

With regard to the second question propounded, an examination of the statute indicates that under the remaining provisions and sections of the Act, a trailer court is a "covered establishment" so long as it falls within the definitions as outlined, or the subject matter as contained in the various sections. If the trailer court would qualify by definition, such as that in the Discrimination in Employment Section, wherein twenty or more employees are involved, then it would be a "covered establishment" within Article 3, Title 41, Arizona Revised Statutes.

Respectfully submitted,


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The Attorney General